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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT SEATTLE

10                   UNITED STATES OF AMERICA,

CASE NO. CR16-0287JLR

11                   Plaintiff,

ORDER

12                   v.

13                   HECTOR HUGO GARCIA  
14                   GUTIERREZ,

Defendant.

15                   Before the court is Defendant Hector Hugo-Garcia's motion to appoint counsel.

16                   (Mot. (Dkt. # 973).<sup>1</sup>) Mr. Hugo-Garcia seeks counsel to help him determine whether he  
17                   is eligible to apply for a reduction in sentence pursuant to Amendment 821 to the United  
18                   States Sentencing Guidelines. (*See id.* at 1.) The court DENIES the motion.

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<sup>1</sup> Although Defendant is named in the docket as "Hector Hugo Garcia Gutierrez," he  
22                   refers to himself as "Hector Hugo-Garcia." (*Compare* Dkt., with Mot. at 1, 2.) The court will  
                 refer to Defendant in this order as "Mr. Hugo-Garcia" to reflect his preference.

The Ninth Circuit has held that federal prisoners do not have a Sixth Amendment right to counsel in post-conviction proceedings. *See Pavulak v. Blanckensee*, 14 F.4th 895, 897 (9th Cir. 2021) (no right to counsel when bringing habeas motion); *United States v. Townsend*, 98 F.3d 510, 511-13 (9th Cir. 1996) (no right to counsel when bringing motion under 18 U.S.C. § 3582(c)). Thus, “the decision whether to appoint counsel rests in the discretion of the district court.” *Townsend*, 98 F.3d at 513 (quoting *United States v. Whitebird*, 55 F.3d 1007, 1011 (5th Cir. 1995)). Generally, district courts only appoint counsel in “exceptional circumstances.” *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). To find exceptional circumstances, the court must evaluate “the likelihood of the plaintiff’s success on the merits” and “the plaintiff’s ability to articulate his claims ‘in light of the complexity of the legal issues involved.’” *Id.* (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)). Having reviewed the record in this case, the court does not find exceptional circumstances warranting the appointment of counsel. Therefore, the court DENIES Mr. Hugo-Garcia’s motion to appoint counsel (Dkt. # 973).

Dated this 22nd day of April, 2024.



Jim R. Blint

JAMES L. ROBART  
United States District Judge